

(1) The successful bids will be opened publicly at a time and place designated by the local HUD office.

(2) Successful bidders will be notified through their real estate brokers by mail, telephone, or other means. Information regarding losing bids will also be made available either through electronic posting or by contacting the local HUD office. Acceptance of a bid is final and effective only upon HUD's execution of the sales contract, signed by both the submitting real estate broker and the prospective purchaser, and mailing of a copy of the executed contract to the successful bidder or the bidder's agent.

(i) *Counteroffers.* If all bids received on a property are unacceptable, a local HUD office may notify all bidders or their brokers that HUD will accept an offer equalling a predetermined net acceptable price. Bidders must submit an acceptable offer before the established bid cut-off period, to be determined by the local HUD office. The highest acceptable offer received within the specified period of time, including any offer received from a bidder who did not submit a bid during the bid period, will be accepted, thus terminating the counteroffer negotiations.

§ 291.210 Direct sales procedures.

When HUD conducts the sales listed in § 291.90(c), it will sell the properties on an "as-is" basis, without repairs or warranties, and it will follow the applicable sales procedures provided in this section.

(a) *Direct sales of properties without insured mortgages to governmental entities and private nonprofit organizations.* (1) State and local governments, public agencies, and qualified private nonprofit organizations that have been preapproved to participate by HUD, according to standards determined by the Secretary, may purchase properties directly from HUD at a discount off the list price determined by the Secretary to be appropriate, but not less than 10 percent, for use in HUD and local housing or homeless programs.

(2)(i) Purchasers under paragraph (a)(1) of this section must designate geographical areas of interest by ZIP code. Upon request, before those properties without insured mortgages are

publicly listed, HUD will assure that governmental entities and nonprofit organizations are notified in writing when eligible properties become available in the areas designated by them. HUD will coordinate the dissemination of the information to ensure that if more than one purchaser designates a specific area, those purchasers receive the list of properties at the same time, based on intervals agreed upon between HUD and the purchasers. A property in this section will be sold to the first eligible purchaser submitting an acceptable contract. All bids received on the same business day will be considered to have been received simultaneously. In the case of identical bids submitted on the same business day, award will be determined by drawing lots.

(ii) Purchasers under paragraph (a)(1) of this section must notify HUD of preliminary interest in specific properties within 5 days of the notification of available properties (if notification is by mail, the 5 days will begin to run 5 days after mailing). HUD will provide a consideration and inspection period for these purchasers. The consideration and inspection period will usually be for ten days from the date of notification of interest, but may be lengthened or shortened by HUD, as appropriate. Those properties in which purchasers express an interest will be held off the market for the duration of the consideration and inspection period. Other properties on the list will continue to be processed for public sale. HUD may limit the number of properties held off the market for a purchaser at any one time, based upon the purchaser's financial capacity as determined by HUD and upon past performance in HUD programs. At the end of the consideration and inspection period, properties in which no governmental entity or nonprofit organization has expressed a specific intent to purchase will be offered for sale under the competitive bid process. Properties in which a governmental entity or nonprofit organization expressed an intent to purchase, during the consideration and inspection period, will continue to be held off the market pending receipt of the sales contract. If a sales contract is not received within a time period of up to 10 days, as determined by HUD, following

expiration of the consideration and inspection period, and no other governmental entity or nonprofit organization has expressed an interest, then the property will be offered for sale under the competitive bid process.

(3) In order to ensure that properties purchased at a discount are being utilized for expanding affordable housing opportunities, HUD may require, as appropriate, periodic, limited information regarding the purchase and resale of such properties, and certain restrictions on the resale of such properties.

(b) *Direct sales to displaced persons; razed lots; auctions.* HUD may seek to dispose of individual properties to individual buyers through methods such as direct sales to displaced persons, sales of razed lots, or auctions. These sales will be upon such terms and conditions as the Secretary may prescribe.

(c) *Direct sales to individuals or entities.* HUD may also seek to dispose of properties through direct sales to other individuals or entities that do not meet any of the categories specified in this section, if the Assistant Secretary for Housing-Federal Housing Commissioner (or his or her designee) finds in writing that such sales would further the goals of the National Housing Act (12 U.S.C. 1701 *et seq.*) and would be in the best interests of the Secretary. These sales will be upon such terms and conditions as the Secretary may prescribe.

(d) *Bulk sales.* HUD may seek to dispose of properties through bulk sales. Such sales will be upon such terms and conditions as the Secretary may prescribe.

Subpart D—Sale of HUD-Held Single Family Mortgage Loans

SOURCE: 62 FR 3769, Jan. 24, 1997, unless otherwise noted.

§ 291.301 Definitions.

For purposes of this subpart, the following definitions apply:

Bid package means the documents prepared for bidders in a mortgage loan sale, and includes the following: An Executive Summary containing information on FHA single family mortgage loan sales and background on HUD programs; a description of post-sale serv-

icing requirements; due diligence information and reports; mortgage loan information; a copy of the Loan Sale Agreement and its exhibits; bidding and closing information; and such other information and requirements as the Secretary may determine necessary.

Payment plan agreement, for purposes of § 291.307(c)(2), means an agreement between the purchaser and the mortgagor for payments after the 36-month period of statutorily authorized forbearance relief has expired.

Single family mortgage loan means a mortgage loan on a single family property assigned to HUD under section 230(b) of the National Housing Act (as that subsection existed prior to January 26, 1996) (12 U.S.C. 1715u), a mortgage loan on a single family property insured by HUD under section 221 of the National Housing Act (12 U.S.C. 1715l), a mortgage loan on a single family property issued in connection with the settlement of the *Ferrell* litigation, a purchase money mortgage loan issued by HUD on a single family property sold from HUD's inventory that was not connected with the settlement of the *Ferrell* litigation, or any other single family mortgage loan owned by HUD and representing an asset to HUD's Title II mortgage insurance funds.

Single family property means a residence with one to four dwelling units.

§ 291.302 Purpose and general policy.

This subpart sets forth HUD's policy and procedures for the sale of HUD-held single family mortgage loans. In general, HUD will sell both performing and nonperforming HUD-held single family mortgage loans. HUD will sell all mortgage loans without recourse and without FHA insurance. HUD will package pools of single family mortgage loans for sale to the general public on a competitive basis; however, HUD may sell mortgage loans to government-sponsored enterprises (GSEs) on a negotiated basis. Nothing in this subpart shall be construed to prevent HUD from packaging single family mortgage loans with other types of HUD assets for sale. The Secretary retains full discretion to offer any qualifying pool of mortgage loans for sale